



Florida Department of Environmental Protection

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July 2, 2010

Mr. A. Stanley Meiburg,
Acting Regional Administrator
United States Environmental
Protection Agency - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

Re: Air Program: Implementation of the EPA Tailoring Rule

Dear Mr. Meiburg:

In its June 3 publication of the greenhouse gas (GHG) tailoring rule, EPA requested information from the states regarding their plans for implementing the rule. This letter is in response to that request.

Florida is unable to automatically implement the prevention of significant deterioration (PSD) provisions of the tailoring rule by interpretation of the term "subject to regulation." As you may know, Florida's PSD permitting program is limited to those pollutants identified in our state rules as "PSD pollutants," a term that does not include GHGs. In order to incorporate GHGs into our PSD permitting program, we will need to amend our state rules and submit a SIP revision to EPA. Likewise, Florida's Title V permitting program is limited to "regulated pollutants" as narrowly defined in our rules. Again, we cannot extend the program to sources that would be Title V solely on the basis of their GHG emissions without amending our state rules accordingly.

Currently, it is not possible to estimate how much time will be needed for us to amend our rules to implement the PSD and Title V provisions of the tailoring rule, particularly since we anticipate a high level of interest in this rulemaking by elected officials, including a new governor and staff.

It is our understanding that EPA will propose a SIP call in August for states that are unable to automatically implement the tailoring rule by interpretation of the term "subject to regulation." This is to confirm that Florida should be on the list of expected SIP-call states in that proposal. We will respond directly to the SIP-call proposal once we have had a chance to review it; in the meantime, however, we believe EPA should anticipate having to use, for an indefinite period of time, its Federal Implementation Plan authority for implementing the PSD program in Florida and its Title V authority to regulate sources that are major for GHGs only.

Sincerely,

Joseph Kahn, Director
Division of Air Resource Management

JK/lgt

cc: Richard Schutt, Chief, Air Planning Branch, EPA Region 4